

**AGREEMENT BETWEEN
THE CLEVELAND INSTITUTE OF MUSIC AND CARLOS KALMAR
--FINAL--**

This Agreement is made on 13 day of April 2021, between the Cleveland Institute of Music ("CIM"), a nonprofit 501(C)(3) organization and Carlos Kalmar ("Kalmar"), represented by Seldy Cramer Artists, 601 Van Ness Avenue, Apartment 15, San Francisco, CA 94102; Kalmar hereby agrees to be personally and wholly bound by the terms of this Agreement.

RECITALS

- A. **WHEREAS**, CIM wishes to be the gold standard in orchestral ensemble preparation, training and artistic quality among America's conservatories and top schools of music;
- B. **WHEREAS**, CIM wants to build an orchestral training program and environment at the professional level in which to rigorously teach young musicians how to perform as Tier I orchestral musicians by continual focus in both rehearsal and concerts on intonation, rhythm and pulse, coherent and directional line, sound production and quality, chamber music-like balance, and entertainment/audience values, all in the broader context of understanding and appreciating stylistic and historical perspective and integrity;
- C. **WHEREAS**, CIM wants to build a conducting training program that is unique among conservatories and schools of music, in which to rigorously teach young conductors how to conduct professionally through focus on score reading, score study, musical context, baton techniques, rehearsal techniques, programming, and community and orchestral citizenship;
- D. **WHEREAS**, CIM wants a Director of Orchestral and Conducting Programs who is genuinely excited by the prospect of harnessing the limitless potential of CIM's students through an Orchestral Program that lives up to the ambitious expectation of being at the top of the country's conservatories and elite schools of music;
- E. **WHEREAS**, CIM wants a Director of Orchestral and Conducting Programs who is a great conductor and accomplished musician with excellent rehearsal technique who sets and maintains an environment of high standards and expectations; and who is a sophisticated pedagogue and educator who can teach, communicate, nurture, draw out, and tirelessly pursue a relentlessly high musical and technical learning environment;

EXHIBIT 1

F. **WHEREAS**, CIM wants a Director of Orchestral and Conducting Programs who will devote primary energies to CIM, and someone who will forge potential relationships with other educational institutions such as Aspen, Tanglewood, Civic Orchestra of Chicago, New World Symphony and Interlochen Center for the Arts; and with The Cleveland Orchestra.

G. **WHEREAS**, CIM wants a Director of Orchestral and Conducting Programs who represents, contributes to, and advances CIM's high standards of artistic excellence, and possesses unwavering musical and personal integrity.

THEREFORE, in consideration of the agreements, covenants, representations, obligations and privileges herein set forth, and intending to be legally bound hereby, CIM and Kalmar agree as follows:

1. EMPLOYMENT STATUS

- a. CIM employs Kalmar as Director of Orchestral and Conducting Programs and Principal Conductor upon the terms and conditions set forth herein. Kalmar's employment status shall be as Regular Full-Time Faculty, and he shall serve under this Agreement as an employee of CIM.
- b. Kalmar shall formally report to the Provost, and have a substantive, day-to-day working and consultative relationship with the Dean for Artistic and Facilities Operations. For matters of broad institutional strategy, Kalmar shall work closely with the President.

2. TERM

- a. This Agreement will remain in effect for six (6) years commencing on July 1, 2021 and concluding June 30, 2027.
- b. Subject to Section 8, if either party wishes to terminate the relationship at the end of this Agreement, such party must notify the other in writing no later than December 31, 2024. In the event neither party notifies the other of such intention, the parties shall agree on terms for any extension of the Agreement no later than June 30, 2025.

3. SCHEDULE

- a. **2021/22 Academic Year:** From July 1, 2021 to June 30, 2022, Kalmar shall be employed as, and accept the title, of Director Designate of Orchestral and Conducting Programs and Designate Principal Conductor during which period Kalmar shall be in residence at CIM for no more than ten weeks, such weeks to be scheduled by mutual agreement. Such weeks shall include the audition week (late August), two concerts with the CIM Orchestra in Severance Hall and rehearsals therefor, one concert of the CIM Orchestra in Kulas Hall and rehearsals therefor, plus additional weeks for planning with faculty and administration and getting to know the CIM family and community. These specific duties, performed in Cleveland, and Kalmar's availability otherwise via phone and video conferencing in order to plan and advise, define Kalmar's duties as an employee in the 2021-22 academic year.

The announcement of Kalmar's appointment (ideally May and in-person) predates this Agreement.

- b. **2022/23 Academic Year through the end of the Agreement:** For each of the succeeding five years of the Term of this Agreement commencing on July 1, 2022, Kalmar shall generally be in residence at CIM for no less than the two 15-week semesters (subject to Paragraph 4(b) below) through the months August through May, such weeks to be scheduled by mutual agreement. Such weeks shall honor CIM's customary full-time load of 18 hours per week of scheduled activity, with such activity to be mutually agreed upon. The activity shall include auditions, rehearsals, performances, coaching, teaching, recruiting, planning and administration, and actively participating in the life of CIM.
- c. In order to maintain his active conducting career and industry visibility, Kalmar may be away from CIM throughout the last five years of this Agreement for up to five of the above weeks annually for guest conducting, such weeks to be mutually agreed upon. Kalmar shall coordinate such weeks with CIM well in advance and use his best efforts to align such periods with CIM student breaks and guest faculty/conductor appearances. Kalmar shall make certain that his conducting and teaching duties during such absences are covered by others.

4. DUTIES AND RESPONSIBILITIES

a. Orchestra Studies Program:

- i. Kalmar shall be the literal and figurative chief of orchestral studies, and shall be decisive in setting, challenging, enforcing and upholding the CIM standards.
- ii. Kalmar shall design and implement a curriculum of rehearsals, concerts, seminars, masterclasses, auditions, and other supplemental activities that will serve as a broad and deep foundation in orchestral playing, tailored, where appropriate, to the varied needs of undergraduate, graduate, and artists diploma students at CIM.
- iii. Kalmar shall select, assign, track and routinely evaluate repertoire/programming for pedagogical fit, placing traditionally standard orchestral repertoire in appropriate context and balanced with new and newly available works representing diversity of styles, composer backgrounds, genre, and era with an eye towards trends in professional orchestras globally that should be integrated into the program to appropriately prepare students for successful professional orchestral careers.
- iv. Kalmar shall set and unapologetically maintain expectations for rehearsals, performances, and audiences that are clear, consistent, and at the highest artistic and technical levels, and ensure that all expectations are achieved within a culture of serious, professional and collegial comportment.
- v. Kalmar shall foster and actively seek collaboration with CIM faculty and other key stakeholders to ensure continuity of pedagogy beyond orchestral rehearsals and performances, such as auditions, repertoire readings, seminars, masterclasses and other supplemental activities, such activities to be developed and/or evaluated in coordination with orchestral instrumental faculty and constantly reevaluated in the context of the overall Program expectations.

- vi. Kalmar shall leverage existing and new professional connections to field a well-rounded, intentional program of guest conductors and performers whose artistic and industry credentials provide an unequivocal benefit to the students in the Program.
 - vii. Kalmar shall accurately evaluate the potential of Program participants for success in professional orchestral careers, and diagnose, prescribe, and manage their pathway to success.
 - viii. Kalmar shall serve as an ambassador locally and globally for the artistic standards of CIM, and prioritize expectations and success of the Program in his overall artistic portfolio, including ensuring that his position at CIM as the Director of Orchestral and Conducting Programs is and remains the primary position in his professional biography.
- b. Principal Conductor:
- i. Kalmar shall conduct CIM student orchestra and chamber orchestra, conducting no less than 75% of all concerts annually. Kalmar shall also conduct other CIM ensembles and activities which may include the new music and chamber ensembles, and will conduct one opera cycle annually, participating with the vocal faculty in hearing auditions and weighing in on role assignments.
 - ii. Kalmar shall select guest conductors for orchestra and chamber orchestra concerts not conducted by Kalmar. Such selections will afford due respect to the professional input and counsel of the Dean, Provost, and President.
 - iii. Kalmar shall routinely invite faculty and other guest artists to participate in the rehearsal and performance processes, and to maintain open, consistent lines of communication with collaborators, and model and foster a collaborative collegial culture between all participants in the Program. All invitations

must fall within mutually agreed upon established budgetary provisions.

- iv. Kalmar shall be a clear, consistent leader from the podium with a temperament suitable for an educational environment that remains entirely focused on the expectations of the Program.
- v. Kalmar shall manage respectful rehearsals and other activities that will prepare the students for professional environment while allowing time and space to grow and improve over the course of a concert cycle, semester, year and Program.

c. Conducting Program:

- i. Kalmar shall conceive and design a formal Program for young conductors, with a goal of having 2 or 3 such young conducting students annually.
- ii. Kalmar shall assist in identification, recruitment and selection of such students, and shall have final say in their selection as the result of interviewing prospective students in person at a minimum of one prospective student audition day. Kalmar shall apply CIM's standards of artistic and technical excellence to the selection, education and personal growth of each conducting student.
- iii. Kalmar shall serve as the principal teacher of conducting and take the lead in all activities of the Program.
- iv. Kalmar shall model and foster the professional and personal characteristics of a successful conductor and insist that students apply these principles in working with internal and external ensembles.
- v. Kalmar shall be mindful of the use of resources, both financial and human, when planning activities for the conducting students, to ensure that all such activities include pedagogical benefits for all participants.
- vi. Kalmar shall collaborate with other internal and external units (New Music Ensemble, Pre-College Division, neighboring

regional orchestras) to provide mutually beneficial opportunities for conducting students.

d. Other:

- i. Kalmar shall actively engage with and participate in the life of CIM.
- ii. Kalmar shall help attract the best students and guest conductors to CIM.
- iii. Kalmar has been provided with and has read the CIM Faculty Handbook, and agrees to be bound by the policies outlined therein, except that where such provisions are in conflict with any of the terms outlined herein, the terms of this Agreement shall supersede those of the Handbook.
- iv. Kalmar shall be invited to participate in any future search processes leading to the appointment of a CIM President and CEO and/or Provost.
- v. Kalmar shall consider other CIM teaching assignments as his schedule allows, such as a possible "201" level conducting course designed for serious undergrad students who are contemplating studying conducting at the master's level.

5. CIM OBLIGATIONS:

In consideration of the mutual covenants herein:

- a. CIM shall pay Kalmar a salary of [REDACTED] for the first year of his employment (2021/22 season), such salary to be paid in bimonthly installments.
- b. CIM shall pay Kalmar a salary of [REDACTED] for the second year of his employment (2022/23 season), such salary to be paid in bimonthly installments.
- c. For the 2023/24 season and beyond, Kalmar's compensation shall be adjusted in accordance with Kalmar's performance of duties hereunder

and compensation increases established by the Board of Trustees for the CIM Faculty and the Staff.

- d. CIM shall provide Kalmar with medical and retirement benefits and any other appropriate fringe benefits, all as outlined in the then current CIM Handbook, which Handbook has been provided to Kalmar.
- e. CIM shall pay for Kalmar's reasonable expenses of moving his household from Des Moines to Cleveland provided Kalmar secures two estimates for such costs, and the parties mutually agree in advance on which estimate to select.
- f. For the 2022/23 season and beyond, CIM shall reimburse Kalmar for CIM-related and approved travel, lodging, food and entertainment expenses in connection with Kalmar's conduct of CIM duties and responsibilities outlined herein.
- g. CIM shall provide Kalmar with a studio office at CIM, along with appropriate administrative support for his conduct of the duties and responsibilities outlined herein.
- h. CIM recognizes the need to invest in the Orchestral Studies Program and Conducting Program outlined herein, and shall make best efforts to provide Kalmar with the necessary financial and human resources support for designing, realizing and implementing such programs. Such investments shall be mutually agreed upon by Kalmar and CIM as part of CIM's ongoing budgetary processes.
- i. For the year 2021/22, CIM shall reimburse Kalmar for his travel expenses between Des Moines and Cleveland for the fulfillment of his duties and responsibilities outlined herein, and in addition shall provide Kalmar with housing while in Cleveland during this period until such time as Kalmar officially moves his home to Cleveland.

6. USE OF NAME AND LIKENESS; ANNOUNCEMENT OF TRANSITION

Kalmar grants to CIM an unlimited right or its agents to use his name, likeness, biographical information or other information for promotional, advertising and fund-raising purposes at any time. No commercial endorsement involving Kalmar's name or likeness will be knowingly made without prior written consent of Kalmar. The parties agree that CIM will release a press announcement after the execution of this Agreement on a date to be mutually agreed upon by the parties and with wording approved mutually by the parties.

7. RECORDING AND BROADCASTS

No additional compensation will be paid to Kalmar for any services or performances hereunder which is or are broadcast, recorded or televised for educational or community purposes. In case of any commercial recordings or broadcasts conducted by Kalmar made by CIM or any others, the parties will negotiate compensation in good faith in advance of such recording/broadcast.

8. TERMINATION

- a. In the event that Kalmar is incapacitated for any reason and cannot fulfill his commitments to CIM, CIM may, at its option, terminate this Agreement upon thirty (30) days' notice to Kalmar. CIM will pay Kalmar all compensation due and accrued through this thirty (30) day period and will have no further duty or liability to him.
- b. CIM may also terminate Kalmar's employment for "cause." As used herein, termination for cause shall mean "the termination of Kalmar's employment with CIM as a result of (i) the commission by Kalmar of a felony or a fraud, (ii) gross negligence or gross misconduct by Kalmar with respect to CIM, (iii) Kalmar engaging in conduct or acts of moral turpitude, (iv) Kalmar's insubordination or failure to follow the directions of the President, which is not cured within thirty (30) days or a longer period if necessary after written notice thereof to Kalmar, (v) Kalmar's breach of a material employment policy of CIM, which is not cured within thirty (30) days or longer if necessary after written notice thereof to Kalmar, or (vi) a material breach by Kalmar of this Agreement or any other agreement with CIM which is not cured within thirty (30) days or longer if necessary after written notice thereof to Kalmar. Kalmar shall be provided more than thirty (30) days to correct any issue in relation to this paragraph 9b if Kalmar explains to the President why additional time is needed to cure and Kalmar has agreed to correct any alleged deficiency. If Kalmar is terminated under the provisions of this paragraph, termination shall be effective immediately unless otherwise stated herein, or at such later date as determined by the President of CIM.
- c. This Agreement may be amended, revoked, or terminated by reason of force majeure. "Force majeure" has broad meaning and includes, but is not limited to, events beyond the control of CIM, or not reasonably foreseeable by CIM, that disrupt CIM's ability to operate, such as acts of God, war, fire, or substantial damage to or destruction of the

property of CIM; catastrophic weather events, local state or national emergencies or disasters; or global pandemics or epidemics; along with any effects of the foregoing.

9. NOTICE

Notices, requests or documents sent pursuant to this Agreement will be sent to the addresses and persons set forth below. All notices, requests or documents are deemed received when (i) delivered personally, (ii) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt, (iii) three (3) days after the date of mailing when sent by registered or certified mail, return receipt requested, or (iv) upon acknowledgement of receipt by the recipient if delivered by electronic mail.

All notices, requests or documents directed to CIM will be sent to it as follows:

Paul Hogle, President and CEO
Cleveland Institute of Music
11021 East Boulevard
Cleveland, OH 44106

Email: paul.hogle@CIM.edu

All notices, requests or documents directed to Kalmar will be sent to him as follows:

Seldy Cramer Artists
601 Van Ness Avenue, Apartment 15
San Francisco, CA 94102

Email: seldoncramer@gmail.com

10. SEVERABILITY:

If any provision of this Agreement, or its application to any person or circumstance, is deemed by a court of competent jurisdiction as invalid and unenforceable to any extent, the remainder of this Agreement will not be affected thereby.

11. GOVERNING LAW:

This agreement will be constructed in accordance with the laws of the State of Ohio. The parties agree that the state or federal courts located in Cuyahoga

County, OH will be the exclusive venue for any action arising out of this Agreement.

12. ENTIRE AGREEMENT:

This Agreement contains the entire agreement between the CIM and Kalmar and no statements, promises or inducements made by either party or agents for either party not contained in this Agreement will be binding or valid. If there is a conflict between the language in this Agreement and any other document, or there are parallel provisions in any other document, the language in this Agreement governs. This Agreement may not be amended except by written instrument executed by the duly authorized representatives of both the CIM and Kalmar.

13. MISCELLANEOUS:

The headings in this Agreement are for convenience only and will not affect the meaning of the text. The Recitals set forth above constitute an integral part of this Agreement and are hereby incorporated herein by reference.

14. AUTHORITY:

The persons executing this Agreement certify that they have the power and the authority to enter into and execute this Agreement.

CARLOS KALMAR

BY: Carlos Kalmar
Carlos Kalmar (Apr 13, 2021 09:03 CDT)

Carlos Kalmar

DATE: Apr 13, 2021

SELDY CRAMER ARTISTS

BY: Seldy Cramer
Seldy Cramer (Apr 13, 2021 09:09 EDT)

Seldy Cramer

DATE: Apr 13, 2021

CLEVELAND INSTITUTE OF MUSIC

BY: Paul W. Hogle
Paul W. Hogle (Apr 13, 2021 09:48 EDT)

Paul W. Hogle, President and CEO

DATE: Apr 13, 2021